

EXHIBIT 48

Robin Snyder's **History of Comics**

Published 12 times a year and © 1990 by Robin Snyder, 255 N. Forest #405, Bellingham, WA 98225-5833. All features © their respective authors 1990. Subscriptions: \$2.50 per sample, \$26 for 12 issues. Ad rates on request.

Prospectus . . .

To create a positive, working oral history of the past, present and future of comics. Going to the source -- the original publishers, writers, artists, editors and others. For their testimony and evidence on the background of the titles, strips, characters and trends (or on the work which they consider their best) which will shape tomorrow's comics.

To separate the fact from fiction and the fundamental from the trivial.

To focus on the relevant: who did what, how, when and why. On building rather than tearing down.

To honor, show respect for, grant recognition to, those who came before: the pioneers, who blazed the new trails, took the fresh steps and advanced the field.

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"He who does not bellow the truth when he knows the truth makes himself the accomplice of liars and forgers." - Peguy

An Insider's Part of Comics History

Jack Kirby's Spider-Man

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In my series of essays, *Avenging the Issues*, now in draft stage, I deal more deeply with the aspects of ideas, creators and creation, definitions and other relevant concepts (collaboration, art ownership, rights and justice), their various contexts (Marvel, Marvel's success, division of labor). It also involves examining numerous confusions, errors and fallacies.

But with *Robin Snyder's History of Comics*, I have been given an opportunity to briefly deal with some specific issues and problems - Spider-Man's creation and costume - that never should have arisen and are unfortunately almost out of hand. Now, hopefully, they may be put to rest or reduced to more of a non-issue status.

In *Comics Scene #2*, March 1982, page 27, Jack Kirby is quoted as saying: "I did a mess of things. The only book I didn't work on was Spider-Man, which Steve Ditko did. But Spider-Man was my creation."

There is an interview with Kirby, by Gary Groth, in *The Comics Journal #134*, February 1990. On page 82 he says: I created Spider-Man. We decided to give it to Steve Ditko. I drew the first Spider-Man cover. I created the character. I created the costume. I created all those books, but I couldn't do them all. We decided to give the book to Steve Ditko. . . .

A creation is anything created, especially something original; created by the imagination, invention or design (noise, junk, graffiti, light bulb, novel, etc.). There is a range/degree of creation, from trivia, the superficial, to the fundamental.

Creator. One who creates.

In 1961 I was working with Stan Lee (writer/editor at Marvel Comics) in producing material (stories and art) for *Amazing Adventures* (which became *Amazing Adult Fantasy*). Briefly, in regards to our working method, Stan provided the plot ideas. There would be

a discussion to clear up anything, consider options and so forth. I would then do the panel/page breakdowns, pencil the visual story continuity and, on a separate paper, provide a very rough panel dialogue, merely as a guide for Stan. We would go over the pencilled story/art pages and I would explain any deviations, changes and additions, noting anything to be corrected before or during the inking. Stan would provide the finished dialogue for the characters, ideas, consistency and continuity. Once lettered, I would ink the pages.

The magazine came about because of the 5-page twist-ending stories we had done as back-ups in *Strange Tales*, *Tales to Astonish*, *Tales of Suspense* and *Journey Into Mystery*.

The typical format for those titles consisted of a 10-12 page lead story about some alien or monster or creature with an odd name (Groo, Grottu, Fin Fang Foom, Kkranga, etc.). Stan was the writer, Kirby the penciller and Dick Ayers usually did the inking. The back-up features (5-pagers) were drawn by Don Heck, Paul Reinman and me.

Since those twist-ending stories received favorable mail, it was believed a complete book by us would sell.

Amazing Adult Fantasy was born and reached #14 when Stan said a new Marvel hero would be introduced in #15. He would be called Spider-Man. Jack would do the pencilling and I was to ink the character.

In a discussion with me about Spider-Man, Stan said he liked the name Hawkman but DC had the name and character. Marvel would add Ant-Man (and the Wasp, which was in the works) so it would have the insect category. (Technically, a spider is not an insect.) From that, I believed Stan had named the character.

Who first came up with the specific name, Spider-Man, is for Stan and Jack to resolve.

Stan said Spider-Man would be a teenager with a magic ring which could transform him into an adult hero - Spider-Man. I said it sounded like the Fly which Joe Simon had done for Archie Publications. I didn't believe Jack was involved in that feature be-

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cause the issues I had seen lacked the usual Kirby flair.

Stan called Jack about it but I don't know what was discussed. I never talked to Jack about Spider-Man so I don't know what his ideas concerning the character actually were.

Later, at some point, I was given the job of drawing Spider-Man. Why, exactly? Stan and Jack also have to clear that up.

One of the first things I did was to work up a costume. A vital, visual part of the character. I had to know how he looked, to fit in with the powers he had, or could have, the possible gimmicks and how they might be used and shown, before I did any breakdowns. For example; he had a clinging power so he wouldn't have hard shoes or boots, a hidden wrist-shooter versus a web gun and holster, etc.

The creation of the costume is a story in itself. Some brief points: the obvious one is the use of the spider theme and the webbing design; I wasn't sure Stan would like the idea of covering the character's face but I did it because it hid an obviously boyish face. It would also add mystery to the character and allow the reader/viewer the opportunity to visualize,

to "draw", his own preferred expression on Parker's face and, perhaps, become the personality behind the mask. Did it work that way? (There are interesting psychological theories about masks.)

Kirby had pencilled 5 pages of his Spider-Man. How much was pure Kirby, how much Lee, is for them to resolve.

The splash was the only one with a drawing of Spider-Man. A typical Kirby hero/action shot. But the costume is what is important. (See illustration.) I'm uncertain about the abstract chest design. The closest thing to it is the one on Ant-Man. Kirby's Spider-Man had a web gun, never seen in use. The only connection to the spider theme was the name.

The other four pages showed a teenager living with his kindly old aunt and hard, gruff, retired police captain uncle, a General Thunderbolt Ross-type (from the Hulk) who was hostile toward the boy.

Next door or somewhere in the neighborhood there was a whiskered scientist-type involved in some kind of experiment or project. The end of the 5 pages depicted the kid going toward the scientist's darkened house.

That is the Spider-Man "given" to me.

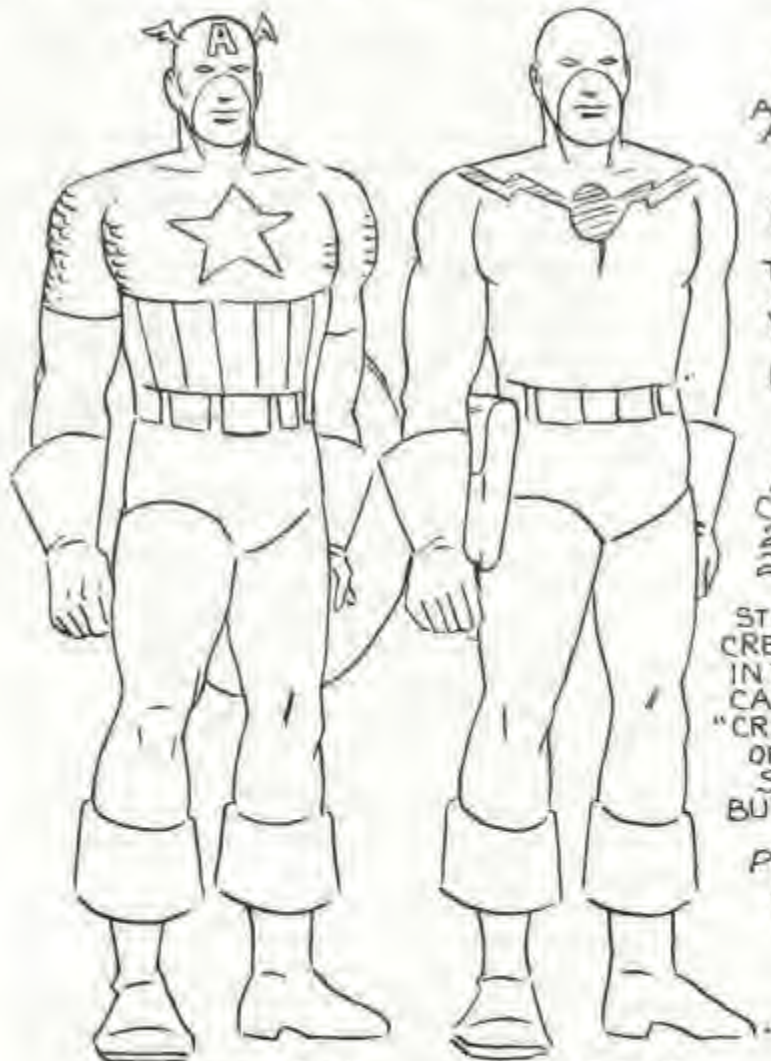
THE COSTUMES

A CREATION IS ANYTHING CREATED.

A CREATOR IS ONE WHO CREATES.

THERE IS ONE NAME: SPIDER-MAN, WITH DIFFERENT COSTUMES. IS IT THE SAME "IDEA"?

DOES TWO DIFFERENT COSTUMES MEAN 2 "CREATORS" 2 "CREATIONS" OR STILL ONLY ONE CREATOR AND CREATION? IN THIS ISSUE, IS IT THE CASE NOT OF WHO "CREATED" THE "IDEA" OF THE NAME SPIDER-MAN BUT WHO CREATED THE PUBLISHED SPIDER-MAN CREATION? →



SIMON + KIRBY'S
CAPTAIN AMERICA

KIRBY'S
SPIDER-MAN



DITKO'S
SPIDER-MAN



SIMON + KIRBY'S
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DITKO'S
SPIDER-MAN

That is the total of Kirby's Spider-Man "creation". That is what he "created", brought into existence – five unused pencilled pages of an unfinished story. It exists as a part, a fragment, of some undisclosed whole. The story, characters, legend, "ideas", are incomplete, unknown. Jack's whole Spider-Man "idea" is unexplained, non-existing, uncreated.

Almost all of the bits of this "creation" (the scientist, magic ring, etc.) were discarded/never used. So what is left of the "original creation"? A name, a teenager, an aunt and uncle. Is it to be believed/held that a name or its "idea" could "cause" the originator to "create" a rejected "creation" and "cause" others to "create" a complete, accepted and successful one? How is that accomplished? The burden of proof rests with the ones who claim it does.

The first complete Spider-Man adventure, containing the legend and story, was published in *Amazing Fantasy* #15, from Stan's synopsis. With this story our working method was obviously more involved than with the 5-pagers because the ideas were greater. There were more characters, action, drama and complexities. There were continuing characters (main and supporting), all with different personality types, on-going relationships, personal problems and conflicts. The heroes and villains had various motives and powers to be exploited. All needed consistency yet development and growth had to be considered.

While it is necessary to know who made the major or important contributions to any published story, it is irrelevant in this context.

What is relevant can be seen by examining the first Spider-Man story and comparing it with what is known of Jack's Spider-Man.

Surely they are not identical "creations".

Are there no important differences? Only minor, unimportant ones? Are the similarities major or minor? Which essential elements, in both, would make them belong to one "idea", one "creator"?

Or does the comparison reveal enough real differences to conclude that even with the same name they are two different creations with different creators?

What standard could be used in evaluating and judging both versions of one "creation" belonging to one "creator"?

There is a confusion about the "first" Spider-Man cover. I pencilled and inked the first cover after I inked the first story, the cover (always) being done last. Which means Spider-Man had a costume, used in the story, the web-designed costume I brought into existence. So I am the creator of it and the published Spider-Man costume is my creation.

I drew the first cover from a subjective viewpoint. I wanted to put the reader/viewer up front with the swinging Spider-Man, to be a part of the activity, to see and realize the danger in falling, in having a sense of swinging along with Spider-Man.

I don't know (or remember) why Stan rejected my cover. He had Jack pencil a second, replacement, cover. I don't know whose idea it was for the reader /

viewer's viewpoint to be out of the action, one of the crowd, as a spectator watching the hero swinging overhead.

But before Jack was asked to pencil the second, replacement, cover, my Spider-Man costume already existed in the first story and on the first cover. So what Spider-Man costume did Jack create?

I inked Jack's cover. This second version became the first published cover. Does that mean Jack's using my costume is equivalent to "creating" my costume "first"? My original first cover has been printed (in *Marvelmania* #2, 1970 and several comics) so it does exist and it did exist, as did my story featuring the costume, before Jack was asked to draw the second cover.

Jack is entitled to credit for what he did on the cover (for whatever he did anywhere and at any time). Am I not also entitled to credit for what I did?

If not, why?

Jack pencilled the first published Spider-Man cover. He created a similar scene to mine with a different viewpoint from mine and he also used my created costume in doing so.

Is his cover a "creation"?

Is one person, one "creator", responsible for the main elements in it?

What kind of standard is to be used?

Since pencilling a cover is known to come first, to come before the inking of the cover, many, seeing a cover before the first story and art, somehow believe the cover penciller (a position) is therefore the "creator" of what is and what follows, that the following story ideas, storyline, characters, costume, popularity, sales and success are all also "caused" and "created" by the penciller (position). All are his "creations". He actually brought them into existence.

But how do those believers explain it, prove it, validate it?

There have been earlier uses of the spider "idea" in comics: Paul Gustavson's *Alias the Spider*, DC's *Tarantula* with his web gun, and certainly many other heroes, heroines, villains and villainesses (such as, in this last category, the Black Widow). There was a Spider pulp novel series and a Spider movie serial, all before any Kirby or Lee Spider-Man.

Is the first person who used the spider "idea" or theme in a tale or fable the "cause", the "creator", of all subsequent "creations" involving spiders or the spider "idea" (name) in stories, novels, radio programs, movies, pulps or comics?

What about the concept of a hero/name, its "idea" or theme? Is every character called/labelled a hero, no matter how different in costume, power, etc., "created" by the first person, the "creator" of, the recorder, the first hero tale, fable or legend?

Or can another's work, using a common "idea", theme (hero, spider, etc.) or even the same name, be an original, created work? The other's work can have its own unique identity consisting of specific parts (characters, costume), place (setting), qualities (powers

and gimmicks), arrangements and relationships (plot ideas) and meaning (the view of man, life, existence, right and wrong, justice).

Is Jack's *Mighty Thor* an original, created work by Jack the creator? (He earlier did a story about Thor's hammer for DC.)

If it isn't and he isn't, there will be an infinite regress. Every comic book hero (from Superman to Batman) is the result of some prior "idea" or "ideas", names or words, some prior position or "creator" from some previous position or "creator", ad infinitum. It will mean there are no real, meaningful differences, no originality, no creative differences. Who then, today, has a right to claim "creating" anything or being a "creator"?

If Marvel's *Thor* is a valid created work by Jack, his creation, then why isn't *Spider-Man* by Stan and me valid created work, our creation?

Can anyone have it both ways?

A creation is actually a recreation, a rearrangement of existing materials in a new, different, original, novel way. In comics, the materials are facts, fiction and fantasy elements.

Ten writers could take the same idea and come up with more than ten different valid creations. Such as in the idea of: boy meets girl, loses girl and gets girl back. The same goes for artists.

A valid comic book creation (character, hero, costume, etc.) is that which is actually brought into existence, a finished whole, a complete creation.

The valid sense of a creation is in the form of its published existence. Thomas Edison is rightfully honored for his successful light bulb. His early repeated failures, and those of all the others who tried, experimented, struggled and failed, are irrelevant. The failures involve neither a valid creator nor any valid creation.

One can't really expect the popular or accepted

history of comic books to be better, in regard to facts and truth, than the histories of nations, races, religions, ideologies, politics, business, etc. The "truth" about people, their actions, is mostly what one wants to believe and accept or because it opposes someone else's "truth" or it serves some advantage or gain to a self-interest. It is more of an emotionally desired "truth" than a factually proven or reasoned truth.

Maybe it's a paradox.

Continuing issues and problems are creations. They are created, made up, of falsehoods and accepted contradictions. And they have creators.

But answers, solutions, are not creations, not created, have no creators, only recognizers, identifiers and discoverers.

A solution is a discovery of a true identification of relevant facts, a correct relationship among them, with people and activities, in any given event or context, which leads to resolving the contradiction which hinders or ruins a successful understanding or action.

"A truth is the identification of a fact of reality." (Ayn Rand.) A truth is not made up or created. It is discovered. The concepts used (conceptual identity, identification) must correctly correspond to the percepts, the referent, to that which exists or happens - factual material.

A falsehood has to be created, brought into existence, by the misuse of concepts or the denial of facts. Both ways contradict a real something's true identify and identification. It is an attempt to "create", make, the unreal, and have it accepted as "real", to present the false as "true".

Of course, one always has a choice (free will). One can correct any error, mistake or contradiction at any time or continue the "created" fantasy. But fantasy only works for fictional characters in a fictional world.

Under The Gun

Your *Histoire aux Comiques* looks better and better. You're doing a fine job. You are attempting Hercules' job... of cleaning out the Aegean Stables. Best of luck.

-- Robert Kanigher

To Mr. Robert Kanigher for your thought-provoking description of my friends at Archie: Why do you beat around the bush when you write: "For its treatment of humans Archie/MLJ was, and still is, the asshole of Mr. Scrooge..."

By the way, copyright renewal on *The Fly* is in the name of Mr. Joe Simon.

For the origin or genesis of *Spider-Man*, the origin or genesis of *The Fly* will have to be considered. As Mr. Kanigher recounts, Mr. Jack "Kirby claims credit, for himself" for creating *Spider-Man*. However, Mr. Kirby, in the past, has revealed that Mr. Simon and Mr. Kirby created *Spider-Man*. Mr. Steve Ditko, in an early interview, reported that Mr. Stan Lee originated the title. Mr. Ditko is misinformed.

The whole story, with the original pencilled art, will

surprise even Mr. Ditko.

For more, see *Comic Book Makers*.

Meanwhile, all you guys and ladies out there arguing over who created what... it's a fun game, but the publishers are laughing all the way to the bank over our little charade.

-- Joe Simon

© Joe Simon from *Comic Book Makers*
artist: C.C. Beck



Alex Toth - A Bibliography

Robin Snyder

1945*Heroic Comics* (Famous Funnies)

- 32 Sep "Yankee King" text illo
 "One of Our Heroes is Missing" (3)
 33 Nov "Pruitt Gets a Pass" (4)
 "He Brought Them Home" (3)
 "Ridin' High" (1)

1946*Future World Comics* (George W. Dougherty)

- 2 Fall "It's a Secret" text illo

Heroic Comics (Famous Funnies)

- 35 Mar "The Switchboard Heroine" (5)
 "The Heroic Traffic Cop" (4)
 36 May "Abraham Lincoln" (4)
 37 Jul "That Another Might Live" (3)
 "Stonewall Jackson" (4)
 39 Nov "Forever Vigilant" (2)

Yellowjacket Comics (Frank Comunale)

- 7 Jan "Little Laffs" (1)

1947*All-American Comics* (DC)

- 87 Jul a (6)
 88 Aug a (7)
 92 Dec b cover
 b "The Icicle Goes South" (12)

All-Star Comics (DC)

- 37 Oct Nov c "The Injustice Society of the World",
 chapters 5 (5) and 6 (5)

Catholic Pictorial (Catholic Guild)

- 1 Mar "Johnny Donald" (6)
 "Father Pat Hannegan, Missionary" (5)

Comic Cavalcade (DC)

- 23 Oct Nov cover

Green Lantern (DC)

- 28 Oct Nov b "The Fool Comes to Town" (12)
 "The Tricks of the Sportsmaster" (11--pages
 2-12)

Heroic Comics (Famous Funnies)

- 41 Mar "Ferryboat Rescue" (2)
 42 May "Snatched from a Quarry Grave" (3)
 "Caught on One Leg" (4)
 43 Jul "Rescue by Air" (4)
 44 Sep "Mercy Flight" (5)
 "Nurse without Fear" (2)
 45 Nov "In Recognition of Unusual Acts of Valor" (2)
 "Vail Medal Award" (2)
 "Paralyzed by Fear" (2)
 "The Heroic Tenderfoot" (3)

a Dr. Midnight

b Green Lantern

c Justice Society of America

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